

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PAULINE EVANS,

Plaintiffs,

-v-

NEW YORK CITY HEALTH AND HOSPITALS  
CORPORATION *and* NEW YORK CITY HEALTHAND  
HOSPITALS CORPORATION LINCOLN,

Defendants.

21 Civ. 10378 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

*Pro se* plaintiff Pauline Evans sued New York City Health and Hospitals Corporation and Lincoln Hospital, alleging that defendants' COVID-19 vaccination policy violated: (1) her right to refuse unwanted and medically unnecessary medical care; (2) her Fourteenth Amendment due process rights; (3) the Supremacy Clause of the United States Constitution; and (4) 42 U.S.C. § 1983. On August 7, 2023, Magistrate Judge Valerie Figueredo issued a Report and Recommendation recommending that the Court grant defendants' motion to dismiss inasmuch as it seeks the dismissal of Evans's claims in their entirety under Rule 12(b)(6). Dkt. 56. The Report also recommended that the Court afford Evans the opportunity to amend her complaint as to her potential Fourteenth Amendment due process claim, because although Evans appeared to assert a property interest in her employment with Lincoln Hospital, the Complaint did not contain any factual allegations as to the terms of that employment. *Id.* at 10–13. On August 29, 2023, the Court adopted Magistrate Judge Figueredo's August 27, 2023 Report and Recommendation in its entirety and granted defendants' motion to dismiss Evans's claims in full under Rule 12(b)(6). Dkt. 57. The dismissal was without prejudice to Evans's right to timely

replead the Fourteenth Amendment due process claim, for the limited purpose of adding allegations as to the nature of her employment.

Evans's amended complaint was due Friday, September 15, 2023. Evans has not filed an amended complaint, asked the Court for an extension, or otherwise taken any action to make any progress in this case since the Court's August 29, 2023 Order. In the August 29, 2023 Order, the Court advised that “[i]f such a complaint is not filed by [September 15, 2023], the Court will then close this case, with prejudice to the filing of an amended complaint.” Dkt. 57 at 5.

Accordingly, under Federal Rule of Civil Procedure 41(b) and the Court's inherent power, *see Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–32 (1962), the Court hereby dismisses this case, with prejudice to the filing of an amended complaint, for the plaintiff's failure to prosecute.

SO ORDERED.



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PAUL A. ENGELMAYER  
United States District Judge

Dated: October 23, 2023  
New York, New York